

United States District Court  
for the  
Southern District of Florida

The Smiley Company SPRL, )  
Plaintiff, )  
 ) Civil Action No. 23-22352-Civ-Scola  
v. )  
 )  
ZeroGiving and others, Defendants. )

**Order on Clerk's Default Procedure**

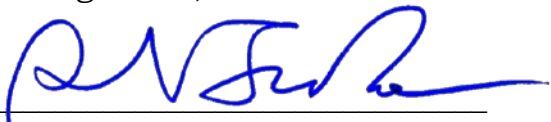
It appears that the Defendants have failed to timely respond to the complaint. In order to resolve this case justly, swiftly, and economically the Court **orders** the Plaintiff to submit a *Motion for Entry of Clerk's Default* by **September 8, 2023**, consistent with Federal Rule of Civil Procedure 55(a). The motion *must* include a certificate of service indicating that the Plaintiffs sent it to the Defendants, including the addresses it was mailed to.

Alternatively, if the Plaintiff no longer wishes to prosecute this action, or have otherwise settled the matter, the Plaintiff must immediately file a *Notice of Voluntary Dismissal* in keeping with Federal Rule of Civil Procedure 41(a)(1)(A)(i). This option is not available to FLSA Plaintiffs. *See Lynn's Food Stores, Inc. v. United States*, 679 F.2d 1350, 1352-55 (11th Cir. 1982).

If the Clerk enters a default and the Defendants fail to move to set aside the default, or fail to otherwise respond to this lawsuit, the Plaintiffs must promptly seek a default judgment, consistent with Federal Rule of Civil Procedure 55(b). If the Plaintiffs fail to timely seek a Clerk's default or a default judgment, the Court may dismiss this action, without prejudice, for failure to prosecute.

The Court directs the Plaintiff to **email copies of this order** to any Defendant who has not appeared, consistent with the Court's order authorizing alternate service of process, and to submit a notice of compliance to the Court after the Plaintiff has done so. (See ECF No. 18.)

**Done and ordered** in Miami, Florida on August 31, 2023.

  
Robert N. Scola, Jr.  
United States District Judge